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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION (STAMP) NO. 23968 OF 2018

Poshs Metal Industrial Pvt. Ltd. .. Petitioner
Vs.
Pune Mathadi, Hamal and Other Manual
Workers Board & Ors. .. Respondents

Mr. Varun Joshi I/b Mr. Chetan Alai for the Petitioner.
Mrs. Lata Desai a/w. Salil Dabke I/b Pallavi Divekar (Divekar & Co.) for the
Respondent Nos.1 to 3.
Mrs. M. P. Thakur, AGP for the Respondent-State.

**CORAM : R. M. SAVANT &
K. K. SONAWANE, JJ.**
DATE : 12th SEPTEMBER, 2018.

P. C.

1. The above Writ Petition has been filed challenging the order dated 10.08.2018 by the Respondent No.1-Pune Mathadi, Hamal and Other Manual Workers Board which has been passed in a proceedings instituted under Section 13 of The Maharashtra Mathadi, Hamal and other Manual Workers (Regulation of Employment and Welfare) Act, 1969. In fact, the said proceedings have been commenced against the Petitioner so as to determine the liability of the Petitioner under the said Act. The commencement of the proceedings is challenged on the ground that the Petitioner has questioned the applicability of the said Act as also on the ground that the Petitioner is sought an exemption from the State Government.

2. It is required to be noted that vide letters dated 05.04.2016 and 03.05.2016 addressed to the Secretary of Respondent No.1 (page 28 of the above Petition) the Petitioner in terms has accepted the fact that the workers mentioned in the said letters were doing the work carried out by the Mathadi workers. Implicit in the acceptance of the said fact, therefore, is the fact that in the Petitioner's factory premises, there is work which is usually carried out by the Mathadi workers who are supplied by the Respondent No.1 to the establishments. The Petitioner has questioned the applicability of the Act and has sought exemption on the ground that the Petitioner's operation is fully mechanised and therefore there is no work which can be assigned to a Mathadi worker in the Petitioner's factory premises and therefore and on the said basis the exemption has been sought by the Petitioner. As indicated above, the proceeding under Section 13 has been commenced to determine the liability of the Petitioner under the said Act and the scheme framed thereunder. In teeth of the aforesaid facts, especially the letters that the Petitioner itself has addressed to the Secretary of the Respondent No.1-Board, in our view there is no warrant to stay the proceeding under Section 13 which are on going till such time as the application for exemption is decided. Needless to state that in the event the Petitioner is exempted by the State Government, the said exemption would have its own effects. It is not necessary for us to consider

the same at this stage. However, we do not find this is a fit case to exercise our writ jurisdiction in the light of the facts which are adverted hereinabove. The Writ Petition is accordingly dismissed.

[K. K. SONAWANE, J.]

[R. M. SAVANT, J.]

Arjun
Machhindra
Kadam

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by Arjun
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2018.09.14
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